

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ELIZABETH CHAN, TAMARA HOFFMAN,  
RACHEL EHRENPREIS, CHAIM KATZ, WINNIE  
CHEUNG, MEIR EHRENPREIS, JOHN BAILEY,  
SEAN CARNEY, LUIS DIAZ AND FAMILIES FOR  
A BETTER PLAN FOR CONGESTION,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
TRANSPORTATION, FEDERAL HIGHWAY  
ADMINISTRATION, THE METROPOLITAN  
TRANSPORATION AUTHORITY, THE  
TRIBOROUGH BRIDGE AND TUNNEL  
AUTHORITY, SHAILEN BHATT, in his official  
capacity as Administrator of the Federal Highway  
Administration, RICHARD J. MARQUIS, in his  
official capacity as Division Administrator of the New  
York Division of the Federal Highway Administration,  
NICHOLAS A. CHOUBAH, P.E. in his official  
capacity as Chief Engineer for the New York State  
Department of Transportation, WILLIAM J. CARRY  
in his official capacity as Assistant Commissioner for  
Policy for the New York City Department of  
Transportation,

Defendants.

Case No. 23-cv-10365-LJL  
[rel. 1:24-cv-01644-LJL]  
[rel. 1:23-cv-10365-LJL]

**Oral argument requested**

**DECLARATION OF ELIZABETH CHAN**

I, Elizabeth Chan, declare under penalty of perjury that the following statements are true and correct:

1. I am a lifelong resident of Battery Park City, New York. My grandparents immigrated here and started their own family on the Lower East Side.
2. Because of the unique location of Battery Park City, geographically separated

from the rest of Manhattan, my family, like many in Battery Park City, has always had a car as a way of accessing the rest of the City and traveling to extended family. Getting to my grandmother who lived in Flushing, Queens, for example, would take hours (with a stroller) by public transit.

3. One thing that has not changed since growing up in Battery Park City is the busy West Side Highway. Pedestrian bridges destroyed on 9/11 have not been restored, making crossing the West Side Highway on foot laborious and, at times, dangerous. At the same time, the only alternative is to weave through the meandering underground maze of the World Trade Center mall. As a result, most families in Battery Park City continue to cross the West Side Highway on foot to get to public transportation.

4. Air quality remains a significant concern for Battery Park City residents, including my family, as the well-documented, lingering environmental health consequences of 9/11 continue to plague our community.

5. There are over 23 schools in and around our Battery Park City neighborhood – nursery schools, public grade schools, special education schools, charter schools, middle schools, high schools and after school programs. There are also recreational playgrounds, ball fields and community centers and a public library in Battery Park City.

6. Many children commuting to and from the neighborhood to arrive at school and these community centers have to cross the West Side Highway by vehicle or by foot from the North and South sides of the neighborhood.

7. I have two children who attend a school located across West Street. My younger daughter is 3 years old and has spent much of her life in and out of hospitals because she suffers from a complex seizure condition and autoimmune disorder. Her seizures require us to travel

quickly to get her to a hospital by ambulance or car and we must use the main vehicular artery of West Street and the West Side Highway to travel there. Traffic congestion, and traffic on the West Side Highway, in particular, for my family can be quite literally a matter of life and death.

8. When Congestion Pricing was announced, neighbors and community members raised concerns about the impact of the plan on Battery Park City. Especially concerning was that making West Street an exempted thoroughfare would have it function as a traditional highway affecting the hundreds, if not thousands of pedestrians who cross West Street daily.

9. To address these concerns, I founded “Families for a Better Plan for Congestion.” This association is comprised of close to 200 families from Battery Park City, the Lower East Side and the broader Lower Manhattan area, including Plaintiffs, who were concerned with the financial and environmental impact that the Congestion Pricing Plan tolls and increased congestion would have on their community.

10. Members of Families for a Better Plan for Congestion tried repeatedly to navigate and engage in the NEPA process. We tried to speak with elected officials about the harm from Congestion Pricing, the problem with the exempted thoroughfares, the lack of attention and analysis being paid to the community, and the paucity of mitigation programs aimed at their neighborhood. These efforts were ignored.

11. In May 2023, I was told by local officials that I could review the Congestion Pricing plan on the Metropolitan Transportation Authority (“MTA”) website. I found the lengthy .pdf of the Final Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”) online and searched for any mention of Battery Park City; Battery Park City was only mentioned approximately twelve times in the EA and zero times in the FONSI.

12. Advised that the deadline to comment was June 12, 2023, community volunteers

mobilized and divided the document to cull through for any mention of our neighborhood.

13. In early June, members of Families for a Better Plan for Congestion attended various Community Board meetings and reached out to many local officials to participate in the NEPA process but were stymied. On June 2, 2023, for example, we were told by Chair of the Battery Park City Committee of the Community Board, Justine Cuccia, that “it’s too late to fight congestion pricing.”

14. On June 6, 2023, Community Board 1 Chairperson Tammy Metzler relayed information that, according to an MTA representative, we were not in a public comment period and that any public comment period had closed. Later that day, I joined a Community Board 1 Transportation Committee meeting to read a statement on behalf of our association, relay the importance of the NEPA process, and ask for the Community Board to support us with a letter for the comment period. I was unilaterally shot down.

15. When seeking specific guidance on June 7, 2023, we were given incorrect advice on the ability to make a public comment regarding the Draft FONSI. We voiced our opinion about the environmental impact not being properly reflected in prior Community Board letters that spoke mostly about exemptions. Yet, we were erroneously told by District Community Manager for Community Board 1, Lucian Reynolds, that he was “sorry bad news is not welcomed” and our ability to make comments had closed.

16. In relaying these messages, local leaders cited their conversations with the MTA.

17. Nonetheless, on June 12, 2023, we submitted comments to Defendants via email and certified mail.

18. Attached here as **Exhibit 1** is a true and correct copy of this comment letter, dated June 12, 2023.

19. Attached here as **Exhibit 2** are true and correct copies of the certified mailing receipts, dated June 12, 2023.

20. Attached here as **Exhibit 3** are true and correct copies of the email sent June 12, 2023, and “read receipts” from those emails.

21. The comment letter was addressed to:

- i. Richard J Marquis (U.S. Department of Transportation Federal Highway Administration)
- ii. Lisa Garcia (U.S. Environmental Protection Agency)
- iii. Stephen Goodman (Federal Transit Administration)
- iv. Allison L.C. de Cerreno, Ph.D. (Metropolitan Transportation Authority)
- v. Nicholas A. Choubah, P.E. (New York State Department of Transportation)
- vi. William J. Carry (New York City Department of Transportation)

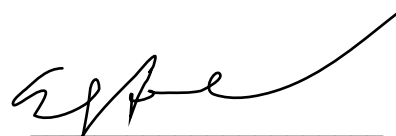
22. Each of these individuals, with the exception of Stephen Goodman, was named in the Environmental Assessment (EA).

23. On a Zoom call on June 20, 2023 with Chris Carroll of the Manhattan Borough President’s office, we learned that without the exempted thoroughfares the plan would not happen and left us with the impression that the plan was a foregone conclusion as they were just waiting for the approval that was certain to come.

24. Defendants did not reply to Plaintiffs’ comment letter. I have also not been able to find the comment letter among the public comments contained in Appendix 18C to the EA.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 18, 2024  
New York, New York

  
Elizabeth Chan